



# Office of City Auditor Memorandum

DATE: November 4, 2003

TO: Ellis Casson, Seattle Civil Service Commission, Chair  
Elizabeth Ford, Seattle Civil Service Commission  
John Cunningham, Seattle Civil Service Commission

FROM: Susan Cohen, City Auditor *Susan Cohen*

RE: Follow up on the Office of City Auditor's August 2001 *Review of the Civil Service Commission* and Management Letter

SUMMARY OF FOLLOW-UP RESULTS ON 18 AUDIT RECOMMENDATIONS	
Agency Responsible for Follow-up	Audit Recommendations Requiring Further Follow-up
City Council	One new issue
Civil Service Commission	None
Office of City Auditor	None

The Office of City Auditor has completed its follow-up of the August 2001 *Review of the Civil Service Commission* and management letter to determine if the Office of City Auditor recommendations have been implemented. We discussed the recommendations from the audit and Management Letter with the members of the Civil Service Commission and Commission employees, and we reviewed the draft *Rules of Practice and Procedure of the Civil Service Commission*. This audit was conducted in accordance with the Standards for the Professional Practice of Internal Auditing.

Since the audit was conducted in 2001 there have been some significant changes at the Civil Service Commission. There are new Commission members and a new Executive Director. Most hearings are now referred to the City's Office of Hearing Examiner. These steps alone have resolved some of the issues noted in the audit. The Commission has given attention to implementing the recommendations within its power. Many of the recommendations have been implemented or are in the process of being implemented. The attached matrix notes each recommendation and to what degree it has been implemented.

We noted one area where we feel additional clarification or improvement could be made. The City Council passed Ordinance 120936 in September 2002, which includes the following statement:

An employee who is represented under the terms of a collective bargaining agreement between the City and an authorized bargaining unit may use the employee grievance procedure authorized herein in lieu of the grievance procedure provided by his or her collective bargaining agreement only when the

collective bargaining agreement does not include provisions governing the action the employee wishes to challenge. [SMC 4.04.240C, emphasis added]

The grievance procedure referenced is in Seattle's Personnel Rules, and allows eventual appeal to the Civil Service Commission. The ordinance language appears to narrow the employee's right, stated in the City Charter, to choose the venue for their appeal in the event of suspension or dismissal. The Charter states:

No member of the civil service may be suspended or dismissed from employment except for justifiable cause. ...Any employee who is suspended or dismissed shall be entitled to an appeal to the Commission except as provided in Section 6.<sup>1</sup> [City Charter, Article XVI, Sec. 7, emphasis added].

At the very least the language is unnecessarily confusing to employees. The attorneys for the Civil Service Commission and for the Personnel Department are taking steps to introduce legislation to clarify the language in the Seattle Municipal Code, and to update the Personnel Rules as well.

We would like to thank the Civil Service Commission members, their staff, and the Personnel Department for their assistance in completing this follow-up.

cc: Glenda Graham-Walton

Attachment

---

<sup>1</sup> Section 6 limits employees to only one appeal venue: "No person shall be entitled to appeal to the Civil Service Commission if the subject of the appeal has previously been the subject of binding arbitration under a labor contract.

## **ATTACHMENT**

### **Follow up on 2001 Office of City Auditor Recommendations:** **The Seattle Civil Service Commission**

#### **From the August 2001 Review of the Civil Service Commission**

<b>Recommendation:</b>	<b>Action:</b>
<b>1. The roles and responsibilities of the members of the Civil Service Commission need to be clarified and formally documented.</b>	
<ul style="list-style-type: none"><li>• <b>Tape record the pre-hearing conferences</b> so that the Commissioners can effectively monitor CSC staff performance, judge the veracity of any complaints about CSC proceedings, and take proactive steps to prevent the recurrence of questionable conduct during the pre-hearings process. The tape recording should begin as soon as CSC staff members enter the room for the pre-hearing conference.</li></ul>	<b>Done</b>
<ul style="list-style-type: none"><li>• <b>Assign one Commissioner to listen</b> to the tape-recorded proceedings on a rotating basis.</li></ul>	<b>Done</b>
<ul style="list-style-type: none"><li>• <b>The roles of the Executive Director and Hearing Examiner during pre-hearings should be clearly documented</b> and updated in the CSC's Rules and Plain Language Guide and disseminated to department officials to prevent misunderstandings by department officials about the duties of CSC personnel. This guidance should include an explanation of the role of CSC staff in discussing the option of settlement.</li></ul>	<b>In process</b>
<b>2. Address Department concerns about the Commission's pre-hearings process.</b>	
Departments should consider filing appeals on any rulings that the department believes are unwarranted on pre-hearing motions. If departments have concerns about the conduct of CSC staff during pre-hearings or any other phase of the appeal process, they should consider submitting complaints to the CSC after it has finished considering the appeal.	<b>Allowed for in new rules</b>
<b>3. Questions about the CSC's jurisdiction.</b>	
The CSC should revise the jurisdictional language of Rule 7.02 so that it accurately reflects its lawful and intended meaning: that only the CSC may determine whether an appeal falls within its jurisdiction, as established by the Charter and the SMC.	<b>This issue resolved. New issue on jurisdiction (see letter).</b>

<b>4. The Commission’s monthly meetings could be run more effectively and efficiently.</b>	
The Commissioners should consider the following:	
<ul style="list-style-type: none"> <li>• <b>Consistently conduct meetings according to parliamentary procedures</b>, such as “Robert’s Rules of Order.” Adopting parliamentary procedures would help the Commissioners clarify the intent of their motions, approvals, and agenda revisions, and ensure a more orderly transaction of business.</li> </ul>	<b>Improved</b>
<ul style="list-style-type: none"> <li>• The Commissioners need to <b>decide on a mechanism they can use for tracking action items</b> that have not been completed, such as research being done by the Law Department, drafts or communication requested of the Executive Director, the status of the CSC’s Goals, Actions, Results, and Measures, or Business Plan Performance Measures.</li> </ul>	<b>Improved</b>
<ul style="list-style-type: none"> <li>• <b>The CSC should conduct significant CSC business at the beginning of the meeting.</b> Items such as discussion of appeals, progress towards the CSC’s Goals, Actions, Results, and Measures, new business related to the CSC, and CSC budget items should be given priority at the beginning of the meeting because they involve the CSC’s Charter responsibilities.</li> </ul>	<b>Done</b>
<ul style="list-style-type: none"> <li>• <b>The Commissioners should exchange non-CSC information during informal discussions before or after the meeting.</b></li> </ul>	<b>Done</b>
<ul style="list-style-type: none"> <li>• <b>The CSC should be familiar with the requirements of the Open Meetings Act</b>, RCW Chapter 42.30. We noted that the Chair did not always adhere strictly to the procedures for announcing an Executive Session. When meeting in Executive Session, the Commissioners also need to conduct the session in a manner that is consistent with the cited exception of the Open Meetings Act.</li> </ul>	<b>Done</b>
<ul style="list-style-type: none"> <li>• <b>The Commissioners also need to clearly communicate when the adjournment to a Closed Session or Executive Session</b> is related to quasi-judicial matters (i.e., sessions not subject to the terms of the Open Meetings Act).</li> </ul>	<b>Done</b>
<ul style="list-style-type: none"> <li>• <b>The Commissioners could achieve increased oversight over the CSC’s operations by receiving reports, during the CSC’s monthly meetings, on the costs of pre-hearings and hearings.</b></li> </ul>	<b>Done</b>
<b>5. The CSC needs to revise its Rules and Procedures.</b>	<b>In process</b>
<b>6. Inadequate workspace for Administrative Staff Assistant.</b>	<b>Corrected</b>

<b><u>From the August 3, 2001 management letter on pre-hearing conference behavior:</u></b>	
<ul style="list-style-type: none"> <li>• <b>The Commission needs to take steps to strengthen its appearance of objectivity</b> so that it can attain and maintain a Citywide reputation for objectivity, effectiveness, and professionalism.</li> </ul>	<b>Steps have been taken</b>
<ul style="list-style-type: none"> <li>• <b>The Commissioners need to establish explicit expectations regarding staff communications with appellants and departments during pre-hearing conferences, and implement mechanisms to determine whether their staff have met these expectations.</b> It is essential that CSC staff communicate in a thoughtful, objective, professional, and considerate manner. We recommend that one expectation be that CSC staff members not discuss their personal experiences with City employment during pre-hearing conferences or hearings because it could create an appearance of fairness issue with one of the parties to the appeal.</li> </ul>	<b>Some steps taken, explicit guidelines being developed</b>
<ul style="list-style-type: none"> <li>• <b>The Commissioners should discuss the issues raised in our memorandum with department officials.</b> Potential feedback mechanisms include sending a Commission representative to meet with individual departments or the use of anonymous questionnaires to solicit information and opinions regarding the CSC's pre-hearing process.</li> </ul>	<b>Planned for after adoption of new Rules</b>
<ul style="list-style-type: none"> <li>• <b>Continue to offer training courses.</b> Such training could help departments fully understand the pre-hearing process.<sup>1</sup></li> </ul>	<b>Planned for after adoption of new Rules</b>

<sup>1</sup>The Executive Director has provided such training to personnel in two departments, and the Commission has stressed its importance by listing it as one of the CSC's goals.